

**LEWIS  
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July 22, 2010

File No.  
29248-02

**VIA ECF**

The Honorable Brian M. Cogan  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: Pamela Rodriguez, et al. v. The City of New York, et al.  
06-CV-3049 (BMC) (RER)

Dear Judge Cogan:

Lewis Brisbois Bisgaard & Smith LLP ("Lewis Brisbois") and District Council 37, AFSCME, AFL-CIO ("District Council 37" or the "Union"), plaintiffs' counsel herein, write in accordance with the Court's order filed July 8, 2010 (the "Order"). The Court directed us to submit the precise amount sought as reimbursement for fees paid by District Council 37 and the actual cost District Council incurred for its in-house counsel work on this matter. Accordingly, we submit the following:

(1) Plaintiffs seek \$481,630 for fees and \$9,059.72 for disbursements to reimburse District Council 37 for fees and disbursements paid to date on this matter. As documentary support of those payments, we enclose a copy of the firm's internal Accounts Receivable Report for this matter. The report shows a record of fees and disbursements billed to District Council 37 and the amounts paid, along with invoice numbers and corresponding number of the checks transmitted in payment.<sup>1</sup>

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<sup>1</sup> We possess copies of the invoices and corresponding checks in payment of the invoices. If the Court wishes to inspect the copy of the invoices and checks, we will submit them to the Court.

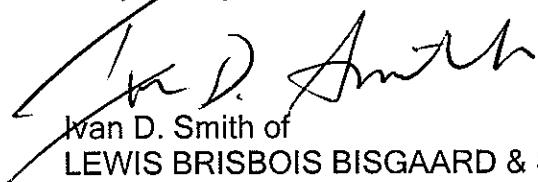
The Honorable Brian M. Cogan  
July 22, 2010  
Page 2

(2) The actual costs incurred by District Council 37 for Steven Sykes's time on the matter is \$40,835.65 and for the paralegal's time is \$2,133.62. As support, we enclose the Declaration of Mr. Sykes detailing the hours worked on this case by Mr. Sykes and the paralegal, and the Affidavit of Alvin Warshaviak, Controller of District Council 37, detailing the hourly rate District Council 37 incurred for Mr. Sykes's and the paralegal's time.

In addition, plaintiffs' counsel respectfully request the Court to delay the fees determination until August 5, 2010, to allow District Council 37 sufficient time to establish a separate legal fund for the deposit of attorneys' fees recovered in this and all subsequent matters. This fund would be controlled by the General Counsel of District Council 37 and segregated from the Union's general treasury. After the inception of the separate legal fund, plaintiffs' counsel would then respectfully request the Court to award District Council 37 fees on this matter at market rate.

In any event, after the Court determines the amount of fees to go the District Council 37, Lewis Brisbois respectfully requests that any remainder from the settlement proceeds be turned over to it as attorneys' fees. Plaintiffs' counsel and defendants negotiated a settlement of the attorneys' fees issue and agreed on a settlement amount of \$965,000. During negotiations, Lewis Brisbois submitted time records to defendants that totaled over \$1,000,000 for the legal work on this case. If the remainder of the settlement proceeds is not awarded to Lewis Brisbois, then plaintiffs' counsel will not realize the benefit of the bargain it struck with defendants. Defendants do not oppose our specific request that the remainder of the settlement proceeds, if any, go to Lewis Brisbois.

Respectfully submitted,



Ivan D. Smith of  
LEWIS BRISBOIS BISGAARD & SMITH LLP

IDS

Enclosures

cc: Joshua R. Fay, Esq. (via E-mail)  
Steven Sykes, Esq. (via E-mail)

ARHST **By Arrival Sequence**		<u>A/R HISTORY</u>		7/19/2010 9:50:43 AM marin		Page 1		LDData	
Post Date	Inv. No.	DISTRICT COUNCIL 37, AFSCME, AFL-CIO RODRIGUEZ V CITY OF NEW YORK		Office: NEW YORK Billing Atty: IVAN D. SMITH					
		Trans Date	Billed Fees	Billed Disbs	Paid Fees	Paid Disbs	A/R Balance	Retainer	
10/11/07	548238 Billing	10/11/07	6,880.00				6,880.00		
11/07/07	548238 Payment: DISTRICT COUNCIL 37 Check#: 66639	11/05/07			6,880.00		.00		
11/13/07	555443 Billing	11/13/07	6,160.00	8.41	6,160.00	8.41	6,168.41	.00	
12/06/07	555443 Payment: DISTRICT COUNCIL 37 AMERICAN FEDERATION Check#: 67284	12/03/07			6,160.00		6,168.41		
12/26/07	564717 Billing	12/26/07	6,400.00	3.00			6,403.00		
<b>2007</b>			<b>19,440.00 *</b>	<b>11.41 *</b>	<b>13,040.00 *</b>	<b>8.41 *</b>	<b>6,403.00 *</b>	<b>.00 *</b>	
1/14/08	567866 Billing	1/14/08	12,335.00	185.81	6,400.00	3.00	18,923.81		
2/13/08	564717 Payment: DISTRICT COUNCIL 37 Check#: 69116	2/12/08			12,335.00	185.81	12,520.81	.00	
2/13/08	567866 Payment: DISTRICT COUNCIL 37 Check#: 69116	2/13/08	10,620.00	71.25	10,620.00	71.25	10,691.25	.00	
3/10/08	574437 Payment: DISTRICT COUNCIL 37 Check#: 70020	3/10/08							
3/13/08	581043 Billing	3/13/08	13,027.50	62.09			13,089.59		
4/14/08	587862 Billing	4/14/08	9,620.00	435.80	13,027.50	62.09	23,145.39		
5/09/08	595262 Payment: DISTRICT COUNCIL 37 AMERICAN FEDERATION Check#: 70911	5/09/08	13,800.00	1,137.33			24,993.13		
6/30/08	595262 Billing	6/10/08	8,340.00	13.65	13,800.00	1,137.33	33,346.78		
6/30/08	595262 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 73209	6/27/08					18,409.45		
7/17/08	611031 Billing	7/17/08	14,540.00	81.25	8,340.00	13.65	33,030.70		
8/04/08	603073 Payment: DISTRICT COUNCIL 37 Check#: 74027	8/04/08					24,677.05		
8/19/08	618859 Billing	8/19/08	22,340.00	202.68	14,540.00	81.25	47,219.73		
8/22/08	611031 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 74376	8/22/08					32,598.48		
9/11/08	626328 Billing	9/11/08	21,180.00	54.72	22,340.00	202.68	53,833.20		
9/17/08	618859 Payment: DISTRICT COUNCIL 37 Check#: 75145	9/16/08					31,290.52		
10/15/08	626328 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 75924	10/15/08					10,055.80		
10/22/08	636264 Billing	10/22/08	19,037.50	3,374.50	19,037.50	3,374.50	32,467.80		
11/04/08	636264 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 76610	11/04/08					10,055.80		
11/18/08	587862 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 77211	11/18/08					.00		
11/24/08	644361 Billing	11/24/08	21,130.00	189.10			21,319.10		
12/11/08	649319 Billing	12/11/08	18,880.00	82.85			40,281.95		

Post Date	Inv. No.	Trans Date	Billed Fees	Billed Disbs	Paid Fees	Paid Disbs	A/R Balance	Retainer
12/16/08	644361	12/16/08						
	Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 77929							
2008								
1/19/09	649319	1/09/09	184,850.00 *	5,891.03 *	172,370.00 *	5,811.18 *	18,962.85 *	.00 *
	Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES Check#: 78477							
1/26/09	659467	1/26/09	29,420.00	821.68	29,420.00	821.68	30,241.68	.00
	Billing							
2/20/09	666284	2/20/09	20,320.00	132.11	20,320.00	132.11	20,452.11	.00
	Payment: DISTRICT COUNCIL 37 Check#: 80218							
3/17/09	672117	3/17/09	30,700.00	446.17	30,700.00	446.17	31,146.17	.00
	Billing							
4/08/09	672117	4/06/09	30,700.00	446.17	30,700.00	446.17	31,146.17	.00
	Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES Check#: 80646							
4/14/09	680872	4/14/09	34,260.00	349.21	34,260.00	349.21	34,609.21	.00
	Billing							
4/30/09	680872	4/30/09	34,260.00	349.21	34,260.00	349.21	34,609.21	.00
	Payment: DISTRICT COUNCIL 37 Check#: 81311							
5/12/09	687412	5/12/09	31,800.00	65.50	31,800.00	65.50	31,865.50	.00
	Billing							
5/27/09	687412	5/27/09	31,800.00	65.50	31,800.00	65.50	31,865.50	.00
	Payment: DISTRICT COUNCIL 37 Check#: 81941							
6/18/09	697572	6/18/09	15,540.00	10.85	15,540.00	110.85	15,650.85	.00
	Billing							
7/16/09	697572	7/16/09	15,540.00	10.85	15,540.00	110.85	15,650.85	.00
	Payment: DISTRICT COUNCIL 37 Check#: 83833							
7/20/09	706011	7/20/09	11,840.00	95.92	11,840.00	95.92	11,935.92	.00
	Billing							
8/13/09	706011	8/07/09	11,840.00	95.92	11,840.00	95.92	11,935.92	.00
	Payment: DISTRICT COUNCIL 37 Check#: 84349							
8/26/09	716498	8/26/09	5,140.00	24.14	5,140.00	24.14	5,164.14	.00
	Billing							
9/22/09	716498	9/21/09	5,140.00	24.14	5,140.00	24.14	5,164.14	.00
	Payment: DISTRICT COUNCIL 37, AMERICAN FOUNDATION Check#: 85559							
9/24/09	724539	9/24/09	9,160.00	44.84	9,160.00	44.84	9,204.84	.00
	Billing							
10/20/09	724539	10/20/09	19,640.00	213.35	19,640.00	213.35	29,053.19	.00
	Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 86317							
11/13/09	737861	11/13/09	8,120.00	93.12	8,120.00	93.12	28,066.47	.00
	Billing							
12/23/09	748873	12/23/09	8,600.00	22.31	8,600.00	22.31	36,688.78	.00
	Billing							
2009			224,540.00 *	2,419.20 *	207,060.00 *	2,173.27 *	36,688.78 *	.00 *
1/22/10	755992	1/22/10	7,240.00	147.72	7,240.00	147.72	44,076.50	.00
	Billing							
2/18/10	764732	2/18/10	20,280.00	267.48	20,280.00	267.48	64,623.98	.00

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\*\*By Arrival Sequence\*\*  
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DISTRICT COUNCIL 37, AFSCME, AFL-CIO  
RODRIGUEZ V CITY OF NEW YORK

Office: NEW YORK  
Billing Atty: IVAN D. SMITH

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A/R HISTORY

Post Date Inv. No.

Trans Date Billed Fees Billed Disbs Paid Fees Paid Disbs A/R Balance Retainer

3/12/10	771061 Billing	3/12/10	12,500.00	836.70	7,240.00	147.72	77,960.68
3/18/10	755992 Payment: DISTRICT COUNCIL 37, AMERICAN FEDERATION Check#: 89677	3/18/10					70,572.96
3/18/10	730338 Payment: DISTRICT COUNCIL Check#: 90586	3/18/10					
3/18/10	737861 Payment: DISTRICT COUNCIL Check#: 90586	3/18/10					
3/18/10	748873 Payment: DISTRICT COUNCIL Check#: 90586	3/18/10					
4/23/10	783930 Billing	4/23/10	22,520.00	228.01			
5/14/10	578922 Billing	5/14/10	23,040.00	362.35			
6/08/10	788922 Payment: DISTRICT COUNCIL 37 Check#: 92531	6/07/10					
6/21/10	801164 Billing	6/21/10	11,560.00	254.79			
6/30/10	783930 Payment: DISTRICT COUNCIL 37 Check#: 93044	6/29/10					
7/14/10	807006 Billing	7/14/10	1,200.00	16.25			
2010			98,340.00 *	2,113.30 *	89,160.00 *	1,066.86 *	46,915.22 *
							.00 *
							.00

Totals:

Retainer Balances  
RETAINER ACCOUNT  
OTHER RETAINER

	<u>0-30 days</u>	<u>31-60 days</u>	<u>61-90 days</u>	<u>Over 90 days</u>	<u>Total</u>
Aged Accounts Receivable					
Fees:	12,760.00			32,780.00	45,540.00
Disbursements:	271.04			1,104.18	1,375.22
Total:	13,031.04 *	*	*	33,884.18 *	46,915.22 *

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

PAMELA RODRIGUEZ, TIFFANY BELLE,  
YOLANDA CAPERS, TONI REID, KESHA SMITH,  
AKELA GRIFFEN, TIFFANY MORRIS, FELICITA  
GOMEZ, SANDRA SPRINGER, CYNTHIA HILL  
and JENNY MARCELINO,

ECF CASE

On behalf of themselves and all others  
similarly situated),

AFFIDAVIT OF  
ALVIN WARSHAVIAK

Plaintiffs,

Civil Case No. 06-Civ-3049  
(BMC)(RER)

-against-

THE CITY OF NEW YORK (Michael R. Bloomberg,  
As Mayor) and THE NEW YORK CITY POLICE  
DEPARTMENT (Raymond Kelly, as Police Commissioner)

Defendants.

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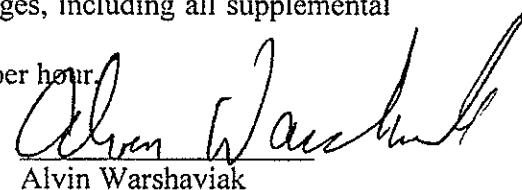
STATE OF NEW YORK )  
COUNTY OF NEW YORK ) SS:

ALVIN WARSHAVIAK, being duly sworn, hereby deposes and states:

1. I am the Controller of District Council 37, AFSCME, AFL-CIO ("District Council 37"). I have held this position for over 17 years. As Controller, I manage the accounting departments at District Council 37, including accounts payable, accounts receivable, and payroll.
2. I am fully familiar with the payroll records of District Council 37, including all employees in the District Council 37 General Counsel's Office.

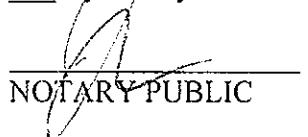
3. District Council 37 is in the process of setting up a segregated legal fund controlled by the General Counsel and used solely to fund legal activities. The fund will be operational on or before August 2, 2010.
4. Steven Sykes began working in the DC37 General Counsel's Office on November 15, 2004.
5. Steven Sykes is the Senior Assistant General Counsel and has held this position since November 2008. Prior to this title, he was an Assistant General Counsel. He is paid a yearly salary based on a 35-hour work week.
6. During the 2006 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$46.79 per hour.
7. During the 2007 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$46.63 per hour.
8. During the 2008 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$59.37 per hour.
9. During the 2009 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$92.56 per hour.
10. During the 2010 calendar year, his hourly wages, including all supplemental benefits and other employer costs was \$97.05 per hour.
11. Anastasia Papadimitri is a paralegal in the District Council 37 General Counsel's Office. She is paid a yearly salary based on a 35-hour work week.
12. During the 2008 calendar year, her hourly wages, including all supplemental benefits and other employer costs was \$23.88 per hour.

13. During the 2009 calendar year, her hourly wages, including all supplemental benefits and other employer costs was \$32.18 per hour.
14. During the 2010 calendar year, her hourly wages, including all supplemental benefits and other employer costs was \$34.65 per hour.



Alvin Warshaviak

Sworn to before me this  
22 day of July 2010



NOTARY PUBLIC

JESSE GRIBBEN  
Notary Public, State of New York  
No. 100-260198586  
Qualified in New York County  
Commission Expires June 9, 2008 13

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
PAMELA RODRIGUEZ, TIFFANY BELLE,  
YOLANDA CAPERS, TONI REID, KESHA SMITH,  
TIFFANY MORRIS, FELICITA GOMEZ, SANDRA  
SPRINGER, CYNTHIA HILL and JENNY  
MARCELINO (On behalf of themselves and all others  
similarly situated),

Plaintiffs,

-against-

THE CITY OF NEW YORK (Michael R. Bloomberg, as  
Mayor) and THE NEW YORK CITY POLICE  
DEPARTMENT (Raymond Kelly, as Police  
Commissioner),

Defendants.

-----X  
06-CV-3049 (BMC) (RER)  
ECF Case

**DECLARATION OF STEVEN  
SYKES IN SUPPORT  
OF PLAINTIFFS' FEE  
APPLICATION**

STEVEN E. SYKES, under penalty of perjury, affirms and states as follows:

1. I am an attorney admitted to practice in the courts of New York, as well as the United States District Court for the Southern and Eastern Districts of New York, and the United States Court of Appeal for the Second Circuit.
2. I am Senior Assistant General Counsel in the General Counsel's Office of District Council 37, AFSCME, AFL-CIO (the "General Counsel's Office"). I have held this position since November 17, 2008. As Senior Assistant General Counsel, I supervise eight attorneys, including assigning cases and review work. I also take the lead on the more complex litigation that our office handles. Prior to my current position, I was an assistant general counsel in the General Counsel's Office from November 2004 until November 2008.
3. In 2006, I spent 162.25 hours working on this matter.
4. In 2007, I spent 212.75 hours on working on this matter.
5. In 2008, I spent 261.5 hours working on this matter.

6. In 2009, I spent 84.25 hours working on this matter.
7. In 2008, Anastasia Papadhimitri, a legal assistant in my office, spent 65.9 hours working on this matter.
8. In 2009, Ms. Papadhimitri spent 17.4 hours working on this matter.
9. I declare under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York  
July 22, 2010



\_\_\_\_\_  
Steven E. Sykes (SS1637)